

IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN THE MATTER OF:

CASE NO. 11-41092

GEORGE D WIGINGTON AND  
TERESA L WIGINGTON

DEBTORS

CHAPTER 11

OBJECTION TO CONFIRMATION  
OF DEBTOR'S SECOND JOINT COMBINED PLAN AND DISCLOSURE STATEMENT

TO THE HONORABLE BANKRUPTCY JUDGE:

NOW COMES The County of Denton, Texas, and files its Objection to the Confirmation of the Debtor's Second Joint Combined Plan and Disclosure Statement, on the following grounds:

1. The claim of the undersigned is included in the class of claims described as Class One - Secured Claims of Denton County Claims.
2. The claim of the undersigned is impaired under the Plan, and The County of Denton, Texas has not accepted the Plan within the time fixed to do so.
3. This claim arises from property taxes for the 2009-2012 tax years on the Debtors' property described as real property located in this ad valorem tax jurisdiction. On January 1, 2013, personal liability arose and a statutory lien attached for the 2013 tax year. The laws of the State of Texas; Property Tax Code, Section 32.05(b); give the tax liens securing these property taxes superior claim over any other claim or lien against this property. This state priority for tax liens is retained in the Bankruptcy Code giving this claim a superior position over all other claims against this property. Stanford v. Butler, 826 F.2d 353 (5th Cir. 1987), 11 USC § 506; Universal Seismic Associates, Inc., 288 F.3d 205 (5th Cir. 2002); In Re Winn's Stores, Inc.; 177 B.R. 253 (Bkcty W.D. Tex 1995).

4. The Plan provisions which deal with the secured claims of the undersigned fail to provide fair and equitable treatment to this secured claim as required by 1129(b)(1) and (2)(A) in that:

- a. The County of Denton, Texas is entitled to interest from the petition date through the Effective Date under 11 USC § 506(b), as well as from the Effective Date until paid in full under § 1129(b), at the statutory rate of 1% per month as required by 11 USC § 511;
- b. To the extent that the debtor intends to pay out this ad valorem tax claim, The County of Denton, Texas is entitled to equal payments in cash over a period ending not later than five years after the Petition Date of this Chapter 11 proceeding, which is April 4, 2011;
- c. The Administrative Expense Taxes for the 2013 tax year are entitled to be timely paid, with any penalties or interest ultimately accrued thereon, or if not so paid, the County of Denton, Texas must then be at liberty to exercise all state law collection activities, for all amounts due by this debtor, without further recourse to the Bankruptcy Court. Furthermore, it shall not be necessary for the County of Denton, Texas to file any claim or request for payment for the 2013 pursuant to Section 503(b)(1)(D);
- d. The liens of the County of Denton, Texas, are entitled to enforcement in the event that of failure to make required plan payments or failure to timely pay post-petition property taxes, resulting in default of the plan. The County of Denton, Texas, must then be allowed to pursue their state court remedies to collect such taxes.

WHEREFORE, The County of Denton, Texas objects to confirmation of the Plan due to noncompliance with the provisions of § 1129(b)(1) and (2)(A) of the Bankruptcy Code, and further requests other and such relief as is just and proper.

Dated: March 21, 2013

Respectfully submitted,

MCCREARY, VESELKA, BRAGG &  
ALLEN, P.C.

Attorneys for Claimant, The County of  
Denton, Texas

/s/Lee Gordon

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CERTIFICATE OF SERVICE

I hereby certify that I have placed a copy of the above Objection to Confirmation of Debtor's Second Joint Combined Plan and Disclosure Statement to Gregory W. Mitchell, 8140 Walnut Hill Lane, Suite 301, Dallas, Texas 75231; Marcus Salitore, US Trustee Office, 110 N. College Ave., Room 300, Tyler, Texas 75702, and to those parties listed on the Court's Notice of Electronic Filing on March 21, 2013, by Electronic Notification.

/s/Lee Gordon

Lee Gordon